Remarks

In view of the foregoing amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

Initially, applicants would like to thank Examiner Khan for the courtesy extended to the undersigned attorney during the personal interview on June 10, 2009. As discussed during the interview, applicants have adopted language in claim 49 that the examiner agreed would be allowable. Because a Notice of Appeal was filed on May 19, 2009, and this submission places the application in condition for allowance, this submission is timely and should be entered.

Claim 49 has been amended. Descriptive support for the amendment appears in the specification at page 5, lines 4-11; page 7, line 4 to page 9, line 8; page 14, lines 27-33; and Examples1-4, 8, 9, 10a, 10b, and 11. Therefore, no new matter has been introduced by these amendments.

Claims 7, 9-13, 15-17, 25-39, 42, 46, 47, and 49 remain pending. No fees are due with this submission.

The rejection of claims 7, 9-13, 15-17, 25-28, 30-39, 42, 46, 47, and 49 under 35 U.S.C. § 103(a) for obviousness over PCT Application Publ. No. WO 96/38186 to Melrose et al. ("Melrose I") in view of PCT Application Publ. No WO 00/03723 to Melrose et al. ("Melrose II") is respectfully traversed.

Melrose I teaches the formation of poly(2-propenal, 2-propenoic acid) from acrolein homopolymers, as well as acrolein copolymers, and their use to treat or prevent gastrointestinal disease in various animals. Melrose I merely describes how to form the starting material that can be used to prepare the polymeric antimicrobial as recited in claim 49.

Melrose II is directed to overcoming the problem of poly(2-propenal, 2-propenoic acid) instability in aqueous solutions. Specifically, Melrose II teaches the formation of a stabilized formulation of poly(2-propenal, 2-propenoic acid), using phenols and anionic surfactants, to form an emulsion that includes the poly(2-propenal, 2-propenoic acid) in a hydrophobic phase.

Neither Melrose I nor Melrose II teaches or describes the formation of what is described in the present application as a super-activated form of poly(2-propenal, 2-propenoic acid), which is formed by the process recited in claim 49. Consequently, neither of Melrose I nor Melrose II describe the use of this super-activated form of poly(2-propenal, 2-propenoic acid) for

treating gastrointestinal disease as recited in claim 49 and claims dependent thereon. For these reasons, the rejection of claims 7, 9-13, 15-17, 25-28, 30-39, 42, 46, 47, and 49 for obviousness over Melrose I and Melrose II is improper and should be withdrawn.

The rejection of claim 29 under 35 U.S.C. § 103(a) for obviousness over Melrose I and Melrose II, further in view of U.S. Patent Application Publ. No. 2002/0127207 to Harris et al. ("Harris") is respectfully traversed.

The United States Patent and Trademark Office ("PTO") cites to Harris at page 6 of the office action for teaching the treatment of livestock with antibacterial compounds, for treatment of *E. coli* infections and diarrhea in pigs. However, the PTO has failed to demonstrate how Harris overcomes the above-noted deficiencies of Melrose I and Melrose II with respect to claim 49, upon with claim 29 depends. Therefore, the rejection of claim 29 for obviousness over the combination of Melrose I, Melrose II, and Harris is improper and should be withdrawn.

In view of all of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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